

**MINUTES
REGULAR MEETING
RETIREMENT BOARD OF TRUSTEES
EMPLOYEES' RETIREMENT SYSTEM OF THE CITY OF BATON ROUGE
AND PARISH OF EAST BATON ROUGE
JANUARY 28, 2021**

The regular meeting of the Retirement Board of Trustees was held in the Metropolitan Council Chambers at 222 St. Louis Street, due to social distancing requirements, and was called to order at 10:07 a.m. by Board Chairman Ms. Marsha Hanlon. Members present: Mr. J. Daniels, Mr. Brian Bernard, Mr. David West, Sgt. Neal Noel, Chief Britt Hines, and Mr. Mark LeBlanc. Absent: None. Staff present: Mr. Jeffrey Yates, Mr. Russell Smith, Mr. Kyle Drago, and Ms. Salli Withers. Others present: Ms. Denise Akers – legal counsel, Ms. Shelley Johnson – actuarial consultant, Mr. Shane Spillman and Mr. Adam Kimble – BRFD.

Mr. Drago formally called the roll.

The chairman began by introducing and welcoming the Board's newest member, Mr. J. Daniels.

Moving to Item 1, Reading and Approval of Minutes, the chairman noted that there were minutes being considered for approval from the regular meeting of December 17, 2020, and from the Investment Committee meeting of December 15, 2020, and called for a motion.

Motion by Mr. West, seconded by Sgt. Noel to suspend the reading of, and approve the minutes of the regular meeting of December 17, 2020, and of the Investment Committee meeting of December 15, 2020 as presented.

No discussion and no objections.

Motion passed by those members present.

Under Item 2, Disability, there were no applications for disability retirement.

The next item on the agenda was Item 3, Benefits Report, and the chairman called on Mr. Yates to present the report. Mr. Yates noted one item on the report, and stated that there were no other items that needed special attention on the report, and that the report was in order as presented.

Motion by Mr. LeBlanc, seconded by Mr. Bernard to approve the Benefits Report as presented.

No discussion and no objections.

Motion passed by those members present.

The next item on the agenda was Item 4, DROP Notifications Report, and it was noted that this report was provided for informational purposes only, and no action was necessary.

The chairman then moved to Item 5, Consultants' Reports, and under Item 5A, Status on Pending Legal Matters, recognized Ms. Akers for her legal update report. She noted that each Board member had a summary of the securities litigations that were in various stages of litigation, and then reviewed the securities litigation overall process. She updated the status of the MacroGenics suit, with the defendants having filed a motion to dismiss, for which CPERS will file a response by January 29, 2021. In the GreenSky litigation there is a status conference set for April 29, 2021, but until then the discovery process will continue. She noted that the defendant's motion to dismiss had been denied some time ago. Regarding the Impinj lawsuit, CPERS had received a check to reimburse for expenses incurred by the staff, and the case was currently in settlement. On the Energy Transfer case, the defendant's filed for a change of venue, but CPERS opposed the change and the court sided with CPERS. The defendant has also filed a motion to dismiss in this case, and the hearing is upcoming. The Merrit Medical suit also had a request for a change of venue which was denied by the court, as well as a motion to dismiss, for which CPERS opposed, and which has yet to be ruled on. She noted that in some cases, results were being delayed because of the COVID-19 stay at home orders affecting the court operations. Following the report, there were no questions from the Board members.

The next item was Item 6, Committee Reports, and there were no matters to address under this item.

Moving to Item 7, Staff Reports, the chairman noted that under Item 7C, there were invoices from the law offices of Akers & Wisbar, LLC, and called for a motion.

Motion by Mr. LeBlanc, seconded by Mr. West to approve payment for the charges to the law firm of Akers & Wisbar, LLC as presented.

No discussion and no objections.

Motion passed by those members present.

Under Item 7D, there was an invoice from the law offices of Tarcza and Associates, LLC, and the chairman called for a motion.

Motion by Mr. West, seconded by Mr. LeBlanc to approve payment for the charges to the law firm of Tarcza and Associates, LLC as presented.

No discussion and no objections.

Motion passed by those members present.

Under Item 7E, there was an invoice from Foster & Foster – Actuaries, and the chairman called for a motion.

Motion by Mr. Bernard, seconded by Mr. West to approve payment for the charges to Foster & Foster Actuaries as presented.

No discussion and no objections.

Motion passed by those members present.

Under 7F, there were no investment manager/consultant invoices for the Board's review.

Under 7G, Cash Activity Report, Mr. Drago presented only the budget comparison report, which will be the case until May or June. There was a brief discussion regarding the Workers' Compensation line item and the difficulty of budgeting for it.

Under Item 8, Unfinished Business, the chairman noted Item 8A, Presentation by Foster & Foster of Actuarial Study for Feasibility of DROP, Retiree Return to Work, and Overtime Issues, and recognized Ms. Shelley Johnson for the presentation. It was also noted that although this report was presented at the previous meeting, two Board members were not present at that time. Ms. Johnson began by stating she would go through the report, but would follow the Board's direction as to what extent to discuss each item in the report. She stated that it was difficult to establish the cost of DROP because it is affected by the return-to-work policy in which an employee can retire and return to work, paid for no more than 29 hours per week. She noted that there are currently no return-to-work provisions in place for either CPERS or the employers, but that there are practices in place that have been used for years in the past. She also noted that many of the points in the report were presented for discussion and not as recommendations, since they could affect the plan sponsor and member employers. Ms. Johnson gave a brief history of the DROP and how it was structured to compel the member to retire upon completion of the DROP participation. This is different from other state and statewide public pension plans. The report shows that there is a cost for DROP but that it is funded through part of the normal cost in the form of employer contributions, and that DROP generally causes a member to effectively retire earlier than if the member did not have access to DROP. The cost of DROP is not part of the unfunded accrued liability, and is accounted for the same as every other benefit offered in the plan. Ms. Johnson then reviewed a chart showing the cost of DROP which showed that the percentage of payroll cost for DROP was .7 percent, or about \$1 million. Mr. LeBlanc noted that when he saw the cost of DROP as a percentage of payroll, he considered this cost as immaterial compared to the benefit received to members. It was noted that a return-to-work provision was never considered when DROP was developed, but today members are looking to work longer than years ago. There was a brief discussion regarding the penalty provisions of the DROP and how with pension portability, the penalties for working past the DROP ending date have been greatly diluted. Surprisingly the analysis comparing the cost of a 5-year DROP versus a 3-year DROP showed that the 3-year DROP was slightly more expensive because of forced retirement in the current plan. Ms. Johnson noted that all the charts are based on the averages for actual members, and the actuarial assumptions adopted by the Board. There was also a brief discussion regarding the effect of pay increases after the member enters DROP. She then reviewed provisions of a partial lump sum benefit that are used in other statewide pension plans, referred to as an ILSB or an IBO. These lump sum benefits are cost-neutral to the system since they actuarially reduce benefits to the member, based on their selections. In answer to a question from Mr. LeBlanc, Ms. Johnson stated that if the system retained more than the 1 percent of investment earnings, for the DROP rate, that would generate a savings to the system and ultimately to the employers. She reminded the Board that other systems do not pay DROP interest during participation in DROP. There was further discussion regarding reducing the DROP rate by 2 percent rather than 1 percent. Ms. Hanlon stated that the DROP interest rate was not being applied as recommended by the actuary because the monthly compounding made the effective rate higher than the calculated rate. Ms. Johnson stated that they had reviewed the 1 percent deduction to the DROP interest rate, and the conclusion was that it was sufficient to cover administrative and investment expenses, and also the risk of the DROP rate going negative. Other systems allow the member to invest the DROP account in a money market instrument, or to self-direct the funds in a type of defined contribution plan. Ms. Hanlon stated that the CPERS DROP had more upside potential than other systems because of the diversified portfolio. Mr. LeBlanc noted that CPERS is able to invest the DROP funds that are retained in the system, and those assets amounted to about \$285 million. Ms. Johnson stated that it was important to consider any changes with a balanced approach since some changes affect the member, while others affect the system or the employers. She then reviewed DROP provisions of other Louisiana retirement systems. There was a brief discussion regarding whether or not current members would be affected by ordinance changes, and whether or not some ordinance changes could be made without a Plan of Government amendment. Regarding the actuarially-computed rate of DROP interest, Mr. Yates stated that in the past the DROP rate of interest was used, but was compounded

monthly to yield a higher rate than the computed rate. He asked the Board for permission to use a reduced rate of interest that would yield an annual rate of 7.1 percent (the actuarially computed rate for 2021), rather than adopting a monthly rate as originally used by the actuary. This would save the system the cost of converting from an annual interest rate to a monthly interest rate, and would calculate the same amount to the penny. Mr. Smith stated that the two methods calculate identically regardless of the members' activity in their DROP accounts (deposits, withdrawals, interest, etc.). Ms. Johnson acknowledged that the alternate rate would yield 7.1 percent, and that she would prepare a letter stating that the reduced rate would be appropriate to use in order to yield the actuarially computed rate of interest.

Motion by Mr. West, seconded by Mr. LeBlanc to approve using the reduced annual rate of interest, which when compounded monthly would equal the actuarially computed rate of interest for DROP accounts, provided the actuary and legal counsel have no objections.

No discussion and no objections.

Motion passed by those members present.

Continuing with the report, Ms. Johnson reviewed changes to consider. The first change was to consider limiting the DROP participation to 3 years, provided that changes are made to the return-to-work practices that would make the 3-year DROP less costly than the 5-year DROP. The second change would be to require the employer to pay contributions to the system while the member is on DROP. The more DROP participants an employer has, the greater the cost to that employer. The third change would be to discontinue the crediting of interest during the DROP participation period. She noted that retaining 2 percent of DROP interest instead of the current 1 percent, as previously discussed, would be another savings to consider. The fourth change would be to require that DROP accounts be transferred to a self-directed account. The fifth change would be to change the DROP interest rate to yield the actuarially computed rate. The sixth change would be to allow members to continue employment after DROP with a supplemental benefit. This change might be affected by the return-to-work practices, and this would eliminate a member drawing both retirement and a salary from the employer. These members would work full-time rather than part-time. Mr. Yates stated that he saw this change as affecting the uniformed service by potentially creating a "log jam" that the original DROP had sought to eliminate. Mr. Bernard saw this change as problematic to the City by allowing the accrual of additional benefits that may compel the employee to never leave thus stifling promotions for newer employees. The last change for consideration was the possibility of offering a lump-sum payment with a reduced benefit to the retiree.

Regarding return-to-work provisions, Ms. Johnson stated that other systems create these provisions with the goal of limiting costs and eliminating double-dipping. There is also the possibility of a minimum break in service to return to work, as mandated by the Internal Revenue Code. She then gave examples from a chart showing costs of members returning to work in a variety of possibilities, and the resulting costs and savings to the member, the system, and the employer. She noted that in analyzing the current members who have returned to work part-time (48 in number), the average re-employment period is about 6 years, and some members exceed 9 years. She also noted that with only 48 members in this category, the costs are not a big concern at this point. She reiterated that there is a cost to the system for return-to-work members, and that the whole premise of retirement is to make payments to employees who have retired – not that are continuing to work for the employer. She then reviewed how the state and statewide retirement systems address return-to-work issues, which usually employ a waiting period before returning, and a limit of the number of hours allowed to be worked. She again stressed that retirement benefits are to be paid to those who qualify and retire, though she noted that in some cases there may be a need to bring retired members back to perform special functions or to meet a specific need. Ms. Johnson then stated that Foster & Foster was recommending some kind of waiting period prior to returning to work; possibly between 6 and 12 months, and that tax counsel be consulted on this issue. Another recommendation would be to limit the returning employee's earnable compensation to 25 – 50 percent, or limit the number of hours that can be paid. Still another recommendation would be to allow the member to return to work and suspend his/her retirement benefit while accruing an additional benefit if the additional service is 36 months or more. Finally, she recommended the possibility of having the return-to-work member pay employee contributions and the employer pay employer contributions on the member's salary. It was noted that there is currently an ordinance provision that allows a non-DROP member to return to work full-time, suspend retirement benefits, and earn an additional benefit at possibly a new final average compensation. Ms. Hanlon stated that she did not see the return-to-work issue as a growing problem, given the ordinance changes that were made in 2015, in which most members will be age 60 when entering DROP or retiring. Mr. LeBlanc stated that he had no problem with the part-time return-to-work members paying employee contributions, and that he understood the problem of allowing members to return in the same job position they previously held. He noted that the opinions requested from the tax attorney could dictate some things that can and cannot be done. The question arose as to whether or not a member could be required to pay employee contributions without earning an additional benefit. Chief Hines asked about a firefighter who has to work 32 years but is limited to a 90 percent benefit although paying employee contributions his entire service period. Mr. Bernard asked about how to handle members who expect to return to work, but under the recommendations and the tax attorney's opinion might have to wait 6 months to a year. He stated that the return-to-work practice puts the City-Parish in a precarious position with the combination of who can return, and can they return full-time or part-time. The rehiring practices might be viewed as arbitrary in nature.

Regarding the overtime issue, Ms. Johnson stated that she had reviewed what other systems have in place, which in most cases incorporates an anti-spiking provision to prevent spiking salary in the years used in final average compensation. Most systems use a limit of 15 – 20 percent increase over the prior year salary. She noted that overtime pay is not documented in the annual census data, but a review of the

data for members in their years leading up to retirement or DROP entry showed there did not appear to be an abuse of overtime in the system. In answer to a question from Chief Hines, Ms. Johnson stated that the hire-backs used in the BRFD would be a type of overtime that is present each year, and would not represent spiking of salaries. She stated that she would need the details of overtime for which contributions have been paid in order to further analyze the system's cost for overtime. She noted that from the data analyzed for spikes in pay during the final average compensation years, the 2018 and 2019 retirees' pay rose 11.1% and 6.3% respectively. There was a brief discussion about how promotions during the final years would be handled regarding the spiking limitations. The chairman stated that any changes must be looked at in conjunction with other elements and provisions of the plan. Mr. LeBlanc stated that there was so much information in the report that he wanted time to review it, and that the report should be received at this point.

Motion by Mr. LeBlanc, seconded by Mr. Daniels to receive the report from Foster & Foster and to refer it to the Administrative & Benefits Committee.

No discussion and no objections.

Motion passed by those members present.

The chairman then moved to Item 8B, Discussion of Resignation of Retirement Board Medical Consultant, and Replacement Process, and recognized Mr. Yates for an update. Mr. Yates stated that the process was difficult as anticipated, and there were not many physicians that specialize in occupational medicine. He stated that Mr. Smith had been working to gather information from Core Medical, and that he hoped to have a recommendation for the Board at the February meeting. There was a discussion about using the Worker's Compensation doctors in the interim period, but Ms. Akers stated that they would have to be comfortable wearing "two hats" – on the employer's side and on the retirement side. In answer to a question from Mr. Bernard, Ms. Withers stated that the date of retirement for a Worker's Comp member would be the day after the application date, assuming they are no longer contributing to the system.

The next item on the agenda was Item 8C, Election of Board Chairman, Vice-Chairman, and Committee Appointments for Calendar Year 2021.

Motion by Mr. Bernard, seconded by Mr. LeBlanc to appoint Ms. Marsha Hanlon as Board Chairman for the calendar year 2021.

No discussion and no objections.

Motion passed by those members present.

Motion by Ms. Hanlon, seconded by Mr. West to appoint Mr. Mark LeBlanc as Board Vice-Chairman for the calendar year 2021.

No discussion and no objections.

Motion passed by those members present.

Regarding committee appointments, the chairman noted that the Investment Committee was comprised of Mr. LeBlanc, Mr. West, and Mr. Toups. Mr. Daniels agreed to serve on this committee in place of Mr. Toups. The Administrative & Benefits Committee would be comprised of Sgt. Noel, Chief Hines, and Mr. Bernard, although the chairman reminded everyone that all Board members are invited to participate in any committee meetings.

Under Item 9, New Business, the chairman introduced Item 9A, Discussion of Moving Retirement Board Meetings to the Metro Council Chambers for Calendar Year 2021, and recognized Mr. LeBlanc. Mr. LeBlanc stated that he had gotten feedback from the members that having the meetings in the chambers made it easier to attend the meetings, made it a more open environment, and provided for social distancing.

Motion by Mr. LeBlanc, seconded by Sgt. Noel to adopt the Metro Council Chambers as the regular meeting place for the monthly Board meetings for calendar year 2021.

No discussion and no objections.

Motion passed by those members present.

Under Item 10, Administrative Matters, there were no items to address.

The chairman then continued with Item 11, Police Guarantee Trust Matters, and under Item 11A, PGT Benefits Report, recognized Mr. Yates who stated that the report contained two items which were in order as presented.

Motion by Mr. Bernard, seconded by Mr. West to approve the PGT Benefits Report as presented.

No discussion and no objections.

Motion passed by those members present.

Under Item 11B, the chairman noted that the PGT DROP Notifications Report was provided for the Board’s information, and that no action was required.

Under Item 11C, Consultants’ Reports, there were no items to address.

There were no investment manager invoices under Item 11D.1 for the Board’s review.

Under Item 11D.2 there were no invoices to address.

Under Item 11D.3, PGT Cash Activity Report, Mr. Drago presented the budget comparison report and noted that there was nothing unusual to point out this month.

Under Item 11E.1, there were no matters for consideration.

Under Items 11F Unfinished Business, and 11G, there were no matters to address.

Seeing no further items on the agenda, the chairman declared the meeting adjourned at 12:23 p.m.

MARSHA HANLON
CHAIRMAN, RETIREMENT BOARD OF TRUSTEES

JEFFREY R. YATES
RETIREMENT ADMINISTRATOR